

## APPEAL PROCEDURES FOR CHILD AND ADULT CARE INSTITUTIONS AND SPONSORING AGENCIES

### Appeal Procedures

1. All institutions and sponsoring agencies may appeal any adverse administrative action taken by the TDHS by requesting a fair hearing to appear in person to refute the action, or by requesting a review of written information in lieu of a fair hearing. However, if the adverse administrative action concerns one or more of the circumstances identified at 7 CFR Part 226.6 (k) (9), an abbreviated appeal process will be observed and only written information that is submitted by the TDHS and institutions and sponsoring agencies will be reviewed.
2. All appeal requests must be presented in writing to the TN Department of Human Services (TDHS) Division of Appeals and Hearings not later than 15 calendar days from the date the institution or sponsoring agency received the notice of the action.
3. The date of an institution's or sponsoring agency's receipt of a notice of suspension and/or proposed termination and disqualification will be governed by the federal regulation at 7 CFR Part 226.2.
4. The TN Department of Human Services (TDHS) Division of Appeals and Hearings will acknowledge the receipt of the appeal request within 10 calendar days of the receipt of the institution's or sponsoring agency's request, and present the request to the TN Department of Human Services (TDHS) Division of Appeals and Hearings immediately upon receipt. The written request should state if a fair hearing is requested or if a review of written information in lieu of a fair hearing is requested. If the appeal request from the institution or sponsoring agency does not specifically request a hearing, a review of written information in lieu of a hearing will occur.
5. If an institution or sponsoring agency does not request a fair hearing or a review of written information in lieu of the hearing within 15 calendar days from the date the institution or sponsoring agency receives a Notice of Intent to Terminate, the TDHS will issue a letter advising the institution or sponsoring agency that it is terminated from the CACFP effective on the 16<sup>th</sup> calendar day following the institution's or sponsoring agency's receipt of the notice, and that the responsible principals and individuals of the institution or sponsoring agency are disqualified from participation.
6. To be considered for a fair hearing or for a review of written information in lieu of a fair hearing, all written documents must be submitted to the TDHS Division of Appeals and Hearings not later than 30 days after receipt of the notice of adverse administrative action.
7. The institution or sponsoring agency must refute the charges contained in the notice during the fair hearing or in the written information that is provided in lieu of the hearing.
8. The institution or sponsoring agency may retain legal counsel, or may be represented by another person.

9. If a fair hearing is requested, the institution or sponsoring agency will be notified in writing of the time, date and place of the fair hearing at least 10 calendar days in advance.

10. Any information which supports an adverse administrative action taken by the TDHS shall be available to the institution or sponsoring agency for inspection from the date of the receipt of the request for a fair hearing or a review of written information in lieu of the hearing.

11. The procedures contained in the Uniform Administrative Procedures Act found at TCA 4-5-301 et seq. shall be followed in rendering a decision on all appeals. The decision of the hearing officer shall be the final administrative determination to be afforded to the institution or sponsoring agency, and shall be rendered in a timely manner not to exceed 60 calendar days from the date of the receipt of the request for a fair hearing.

12. All requests for a fair hearing or for a review of written information in lieu of a hearing must be submitted to:

**Tennessee Department of Human Services**  
**Division of Appeals and Hearings**  
**PO Box 198996, Clerk's Office**  
**Nashville, TN 37219-8996**  
**Fax: (615) 248-7013 or (866) 355-6136**  
**E-mail: [AppealsClerksOffice.DHS@tn.gov](mailto:AppealsClerksOffice.DHS@tn.gov)**

13. If a termination action is upheld by the hearing officer, the TDHS will issue a letter to the institution or sponsoring agency and its responsible principals and individuals advising that the termination and disqualification are effective on the date of the ruling issued by the hearing officer.

14. As required by the federal regulation at 7 CFR Part 226.6 (c) (7), each disqualified institution, sponsoring agency, principal and individual will be placed on the National Disqualified List maintained by the U.S. Department of Agriculture (USDA). Once included on the National Disqualified List, an institution, sponsoring agency, principal and individual shall remain on the list until such time as the USDA, in consultation with the TDHS, determines that the serious deficiencies that led to their placement on the list have been corrected, or until seven years have elapsed since they were disqualified from participation. However, if the institution, sponsoring agency, principal or individual has failed to repay debts owed under the program, they will remain on the list until the debt has been paid.

## APPEAL PROCEDURES FOR CHILD CARE HOMES

### Termination/Appeal Procedures:

1. The Sponsoring Agency will issue a Notice of Intent to Terminate by certified mail, unless immediate termination is warranted based on the actions of the Home Provider which imminently threaten the health and safety of participants or the public. The notice must inform the Home Provider of the ground(s) for termination and disqualification. The notice must also inform the Home Provider of his/her right to request a fair hearing or to request that written information be reviewed by a hearing officer in lieu of a hearing, and that meal payments will not be withheld during the appeal process so long as the appropriate records to support the meal payments are available pending the outcome of the fair hearing.
2. If a letter is issued to immediately terminate a Home Provider for cause based on an imminent threat to the health and safety of participants or to the public, the letter must inform the Home Provider of the ground(s) for termination and disqualification and of the date for this action. The notice must also inform the Home Provider of his/her right to request a fair hearing.
3. A request for a fair hearing or for the review of written information in lieu of a hearing must be presented by the Home Provider in writing to the TDHS Division of Appeals and Hearings not later than 15 calendar days from the date the Home Provider receives the termination notice. The TDHS Division of Appeals and Hearings must notify the Home Provider of the receipt of the request within 10 calendar days of the receipt of the request. If the request for a fair hearing or for the review of written information in lieu of a hearing is sent to the Sponsoring Agency, the Sponsoring Agency must forward the request with a photocopy of the Notice of Intent to Terminate Letter and photocopies of any monitoring reports or other related materials to the TDHS Division of Appeals and Hearings immediately upon receipt of the Home Provider's request.
4. All requests for a fair hearing or for a review of written information in lieu of a hearing must be submitted to:

**Tennessee Department of Human Services**  
**Division of Appeals and Hearings**  
**PO Box 198996, Clerk's Office**  
**Nashville, TN 37219-8996**  
**Fax: (615) 248-7013 or (866) 355-6136**  
**E-mail: [AppealsClerksOffice.DHS@tn.gov](mailto:AppealsClerksOffice.DHS@tn.gov)**

5. If the written appeal request from the Home Provider does not specifically request a hearing, a review of written information in lieu of a hearing will occur. To be considered for a fair hearing or for a review of written information in lieu of a fair hearing, all written documents must be submitted to the TDHS Division of Appeals and Hearings not later than 30 days after receipt of the Notice of Intent to Terminate. If the written documents are submitted to the sponsoring

agency, the sponsoring agency will forward the written documents to TDHS Division of Appeals and Hearings immediately upon receipt.

6. The hearing officer shall be designated by the TDHS Division of Appeals and Hearings. If a fair hearing is requested, the TDHS Division of Appeals and Hearings must notify the Home Provider in writing of the date and place of the fair hearing at least 10 calendar days in advance. A copy of the written notice will also be provided by the TDHS Division of Appeals and Hearings to the CACFP program staff of the Tennessee Department of Human Services.

7. The Home Provider must refute the charges contained in the Notice of Intent to Terminate during the fair hearing or in the written information that is submitted in lieu of the hearing.

8. The Home Provider may retain legal counsel, or may be represented by another person.

9. Except in situations that imminently threaten the health and safety of participants or the public and that are identified in the notice of action by the Sponsoring Agency, program payments will not be withheld during the appeal process for the Home Provider. This is providing that appropriate records to support the payments are available and maintained by the Home Provider. If the Home Provider does not request a fair hearing within 15 calendar days from the date the Home Provider receives the proposed termination notice, the Sponsoring Agency will issue a letter advising the Home Provider that it is terminated and disqualified from the CACFP effective on the 16<sup>th</sup> calendar day following the Home Provider's receipt of the Notice of Intent to Terminate.

10. Any information on which the Sponsoring Agency based its adverse administrative action shall be available to the Home Provider for inspection from the date of the receipt of the appeal request from the Home Provider.

11. The decision of the hearing officer shall be the final administrative determination to be afforded to the Home Provider, and shall be rendered in a timely manner not to exceed 60 calendar days from the date of the receipt of the Home Provider's appeal request by the Sponsoring Agency.

12. If the Notice of Intent to Terminate is upheld by hearing officer, the Sponsoring Agency will issue a final termination and disqualification notice to the Home Provider. The effective date of the termination and disqualification will be the date of the appeal ruling issued by the hearing officer.

13. As required by the federal regulation at 7 CFR Part 226.6 (c) (7), each disqualified Home Provider will be placed on the National Disqualified List maintained by the U.S. Department of Agriculture (USDA). Once included on the National Disqualified List, a Home Provider shall remain on the list until such time as the TDHS determines that the serious deficiencies that led to the provider's placement on the list have been corrected, or until seven years have elapsed since the provider's agreement was terminated for cause. However, if the Home Provider has failed to repay debts owed under the program, the provider will remain on the list until the debt has been paid.